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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,623	08/13/2001	Jeffrey A. McKelvey	01SW100	8000

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EXAMINER

PATEL, RAMESH B

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 10/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/928,623

Applicant(s)

MCKELVEY ET AL.

Examiner

Ramesh B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-26 are presented for examination.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 9/7/2001 1/14/2003 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements being considered by the examiner.

Claim Objections

3. Claim 1 is objected to because of the following informalities:
Claim 1, includes the terms "An system" in line 1 should be "A system".
Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 and 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 11 and 23, the phrase "such as" and/or "such that" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Dependent claims, which are not particularly rejected, are rejected based on the rejected base claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-26 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Azarya et al. (US Patent 5,978,578).

As to claims 1, 11, 15 and 23, Azarya teaches the invention including a system, a method and a medium for interacting programmatically with an industrial controller, the system, the method and the medium, comprising: an automation interface component adapted to communicate with at least one industrial controller is taught as the automation system is capable of enabling I/O boards to access communication network for receiving and transmitting real time control information over a communication

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network which includes a control bus, a node controller and a development system (see, abstract and figures 3-4) and a computer process interface library integrated into the automation interface component, the computer interface library exposing the automation interface component to a client application process which can communicate with the at least one industrial controller programmatically and the client application being coupled to a website for interacting with industrial controllers over the Internet through automation interface component is taught as the system is capable of communicating with industrial controller components through network and Internet as figure 4, elements 12-14, 18, 180 (see, abstract and figures 3-6 and col. 44-63).

As to claim 2, Azarya teaches the system, the method and the medium wherein the computer process interface library being compiled into automation interface component to provide an executable file (see, abstract and figure 11, element 192).

As to claim 3, Azarya teaches the system, the method and the medium wherein the automation interface component being comprised of a plurality of objects comprising a top application object for invoking an instance of the automation interface by client application process (see, abstract and figure 8 and col. 6, lines 31-51 and col. 8, lines 56-62).

As to claims 4-5, 13, 19-20 and 24-25, Azarya teaches the system, the method and the medium wherein the automation interface component comprising functionality

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for uploading and/or downloading an instruction program from and to an industrial controller programmatically (see, abstract and col. 7, lines 1-12).

As to claims 6, 21 and 26, Azarya teaches the system, the method and the medium wherein the automation interface component comprising functionality for inserting a rung into a ladder logic instruction program, downloading the ladder logic program to the industrial controller and executing the program programmatically (see, abstract and figures 11-15 and col. 7, lines 1-12).

As to claims 7, 14, 22 and 16, Azarya teaches the system, the method and the medium further comprising a client application program functioning as one of a developer, a monitor, an editor and a maintenance system (see, figure 9, element 180).

As to claims 8-9, Azarya teaches the system, the method and the medium wherein the client application program residing at a remote server and the automation interface residing at a local server connected to one another by a first network, the automation interface being connected to an industrial controller by a second network wherein the first network being one of an intranet and the Internet and the second network being one of a local network and a factory network (see, abstract and figures 1-4).

As to claim 10, Azarya teaches the system, the method and the medium wherein the automation interface providing access to data of a controlled process associated with an industrial controller (see, abstract and col. 6, lines 31-51).

As to claim 12, Azarya teaches the system, the method and the medium further comprising the Internet for storing control data accessed from one or more industrial controllers by the client application (see, abstract and figures 11-15 and col. 6, lines 52-67).

As to claims 17-18, Azarya teaches the system, the method and the medium further comprising exposing the executable file to local and remote applications which comprising the executable file to the Internet via a web service (see, abstract and figures 10-11 and 17 and col. 6, lines 52-67).


3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh B. Patel whose telephone number is 703-308-6673. The examiner can normally be reached on M-Th; 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703-305-0282. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-305-3718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


Ramesh B. Patel
Primary Examiner
Art Unit 2121

September 24, 2003